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the court allowed recovery by the wife's administrator for her wrongful death at the hands of her husband, but considerable reliance was placed upon the wording of the Arkansas statute, which, in addition to giving the wife the right "to sue and be sued," provided that she should "enjoy all rights and be subjected to all the laws of the state as though she were a *femme sole*." ACTS OF ARKANSAS, 1915: Act to Remove Disabilities of Married Women, Sec. 1. The court thought that even though the "sue and be sued" clause might, by strict construction, effect only a procedural change, yet the additional phrase removed the common law restriction upon the wife's rights, conferred the right to sue her husband in tort, and consequently gave her administrator the same right. *Johnson v. Johnson* (Ala.), 77 South. 335 (1917), and *Prosser v. Prosser* (S. C.), 102 S. E. 787 (1920), were, however, decided squarely upon what might be called the modern social interpretation of the usual form of Married Women's Acts. The principal case is the latest of the series, and it, too, cannot be explained by any special wording of the statute. The rapidity with which these decisions are being handed down is a fair indication that in a few years the time-honored disability of the wife to sue her husband for personal injuries will be ancient history.

INTOXICATING LIQUORS—LEGAL POSSESSION UNDER PROHIBITORY STATUTE.—The defendant, who accepted a friend's invitation to take a drink of intoxicating liquor, was indicted for having liquor in his possession, under a statute providing that "It shall be unlawful for any person * * * to have in his possession any intoxicating liquor; * * * and such possession and proof thereof shall be *prima facie* evidence that said liquor was so held and kept for the purpose of unlawful sale or disposition." The trial court charged as follows: "The word 'possession' has a well-defined meaning, and it is this: I have in my possession a spectacle case; if I pick up a glass containing whisky I have in my possession whisky." It was *held* that this charge was erroneous, since the legislative intent, as collected from the context of the entire statute, was to prohibit possession for the purpose of unlawful sale or distribution. *State v. Jones* (Wash., 1921), 194 Pac. 585.

"Possession" has been defined as that condition of facts under which one can exercise his power over a corporeal thing at his pleasure, to the exclusion of all other persons. *Rice v. Frayser*, 24 Fed. 450. The conception of the Civilians was that the *animus domini*, or intent to deal with the thing as owner, was in general necessary to turn a mere physical detention into juridical possession. SAVIGNY, *JUS POSSESSIONIS*, bk. II, § 21. While the common law likewise includes intent as an element of possession, its requirements are not so comprehensive as those of the Roman law. It is sufficient under the common law that there be an intent to exclude all other persons, and it is not necessary that there should be an assumption of the role of absolute owner. *Vide* the case of a tenant for years, or that of one having a possessory lien. See HOLMES, *COMMON LAW*, p. 220. Thus, it has been quite properly said that "Possession does not necessarily depend on title. * * * Title is concerned with the internal connection of the owner with his prop-

erty. * * * It is not the actual dominion but the right to dominion. * * * Possession, on the other hand, is an external characteristic of property. * * * Possession may be transferred where title is not. * * * *Possession may be termed control with intention to exclude.*" Note on *Regina v. Ashwell*, 16 Cox C. C. 1, in 7 COL. L. REV. 395. It would seem that in a certain class of cases possession might exist without the intent to exclude all other persons; in fact, without any intent. Such cases are those where chattels are lost upon the land of one person and taken by another before the owner of the land even has any knowledge of their existence. *Regina v. Rowe*, C. C. 93; *Kincaid v. Eaton*, 98 Mass. 139. In such instances the only discoverable intent with regard to the chattels must be implied from the larger intent to exclude the public from the land, and hence from everything upon it. On the other hand, the classification of the servant's detention of his master's goods as custody rather than possession would seem to deny the designation of possession to a state of facts including both control and an intention to exclude. And it would be a useless refinement to attempt to show that it were otherwise. This exception, however, is explicable upon historical grounds. When the servant was a slave and had no standing before the law, this fact, as well as the master's actual power over him, conduced to the idea that the custody of the slave was in reality the possession of the master. Disregarding, however, a few such apparent exceptions, it can be said that the common law principle is that a physical detention coupled with an intent to exclude all other persons is sufficient to constitute possession. At first blush, it may seem that the decision in the principal case has injected an additional element into the common law definition. But such is not the case, although of course it would have been competent for the legislature to give the term "possession" any meaning which it saw fit, and the court would have been bound to apply it in that sense. What the statute does, however, is simply to make it unlawful to have possession of intoxicating liquor under such circumstances as would tend to facilitate sale and distribution thereof. Such being the clear intention of the legislature, as gathered from the context of the entire act, the court was bound to effectuate it; and in refusing to hold unlawful possession under any other circumstances than those indicated, its decision is unimpeachable. For a similar statutory interpretation, see *People ex rel. Darling v. Warden of Tombs Prison*, 134 N. Y. Supp. 335. See also *Ford v. State* (Ind., 1921), 129 N. E. 625, where defendant had in his possession whisky owned by him in common with another. This was held a violation of a statute making it unlawful to keep intoxicating liquor with intent to furnish or otherwise dispose of it.

JURY—EXCUSING JUROR DOES NOT ENTITLE DEFENDANT TO ANOTHER PEREMPTORY CHALLENGE.—Appellant was convicted of the crime of statutory rape. After the jury had been passed for cause and appellant had exercised four peremptory challenges, the court excused one of the jurors on account of sickness. Appellant objected to this juror being excused unless the court should grant him an additional peremptory challenge, claiming that he did